

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 15 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

O2 MICRO INTERNATIONAL
LIMITED, a Cayman Islands corporation,

Petitioner - Appellee,

v.

MONOLITHIC POWER SYSTEMS,
INC.,

Respondent - Appellant.

No. 04-15875

D.C. No. CV-03-04005-EDL/CW

MEMORANDUM^{*}

Appeal from the United States District Court
for the Northern District of California
Elizabeth D. Laporte, Magistrate, Presiding

Argued and Submitted February 15, 2006
San Francisco, California

Before: HUG, ALARCON, and McKEOWN, Circuit Judges.

We dismiss this appeal for lack of jurisdiction. The discovery order—
granting in part the application of O2 Micro International pursuant to 28 U.S.C.
§ 1782—was not final and thus not appealable under 28 U.S.C. § 1291. The

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

magistrate judge and district court left open for later determination a key issue: confidentiality, under the yet to be negotiated and entered stipulated protective order or, absent a stipulated order, a court-mandated confidentiality order.

In light of this dismissal, we do not reach the other jurisdictional question, namely whether In re Letters Rogatory from the City of Haugesund, Norway, 497 F.2d 378, 379 (9th Cir. 1974) is still controlling law, or whether Haugesund conflicts with or has been eroded by subsequent cases. See, e.g., Four Pillars Enterprises Co., Ltd. v. Avery Dennison Corp., 308 F.3d 1075, 1078 (9th Cir. 2002); United States v. Sealed 1, 235 F.3d 1200, 1203 (9th Cir. 2000); In re Letters Rogatory from the Tokyo Dist. Prosecutor's Office, Tokyo, Japan, 16 F.3d 1016, 1018 n.1 (9th Cir. 1994); In re Letters Rogatory from the Tokyo Dist., Tokyo, Japan, 539 F.2d 1216 (9th Cir. 1976).

In the interim between the district court's decision and this appeal, the Supreme Court decided a case that addresses 28 U.S.C. § 1782. See Intel Corp. v. Advanced Micro Devices, Inc., 542 U.S. 241 (2004). The district court may consider what effect, if any, Intel has on the order to grant, in part, O2 Micro's request for document production.

DISMISSED.